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The Solicitors' Journal

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The Solicitors' Journal

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Current Topics.

Minor Motoring Offences and the Police.

IT HAS been stated that a system has arisen in certain districts of "mitigated penalties" for obstruction, failure to produce Road Fund Licence, etc. In effect, the motorist is offered the alternatives of having a charge brought against him, or paying a small sum to the funds of the local authority concerned in the matter. It appears that the Cornwall magistrates, after consulting the Home Office and the Lord Chief Justice, have indicated their opinion that this practice is unlawful. The bodies who continue it, however, plead that the motorist is left perfectly free, and if he pays, his action is entirely voluntary. This is a matter which may well deserve proper consideration by the higher authorities. In Germany the police have apparently power to require motorists to stop, charge them with minor offences, find them guilty, fine them, collect the fine, and give receipt for it. If the police here collect the money for the so-called mitigated penalty, the system is not unlike that of Germany, for presumably there is appeal in that country from the policeman to the court, and an unsuccessful appeal would probably leave the appellant worse off, just as conviction by a court would do in England to anyone who refused to pay the mitigated penalty. There are clearly very obvious objections to the police collecting money in this way, and, if an officer has to fill in the figures on both receipt and counterfoil, there is little or no check whether he does so correctly. Misappropriation could be avoided by printed tickets and counterfoils for fixed amounts, like omnibus tickets, but the question of legality would still remain. The best method of raising it by a test action might occasion some difficulty, but possibly a motorist might sue the county council or other body as for money had and received. A plea that the payment, though nominally a voluntary one, was in effect made by reason of a threat, namely of charge of an offence, might be regarded as one of substance, and there would be the further plea that the collection of the money was in any case *ultra vires*. Another matter is the system of cautions (for an example see p. 630, *ante*), the value of which no doubt lies in giving the cautions in evidence in the case of conviction on any future prosecution for the same offence. In such event the motorist should at least be entitled to challenge the caution, and in some districts this is apparently permitted. The police no doubt have certain inherent powers of charging or refraining from doing so, but formal evidence that a person charged has previously paid to escape a prosecution is something of a novelty, and its possible implications deserve careful consideration.

Decision without Trial.

AN INTERESTING appeal against a county court decision, involving the interpretation of that portion of the Rent Restrictions Acts which provides that in any case the court shall not make an order for possession unless it considered it reasonable to make such order, came before the Divisional Court—Mr. Justice SWIFT and Mr. Justice ACTON—on the 15th October. The appeal was the defendant's appeal against an order for possession in favour of the plaintiff. There were no judge's notes taken. The defendant alleged that the premises in question were protected by the Rent Restrictions Acts, 1920 and 1923. The plaintiff relied upon clause (*a*) of sub-s. (1) of s. 4 of the Act of 1923, which is substituted for s. 5 of the Act of 1920, and alleged that £19 10s. was owing and due from the tenant which had not been paid. That debt was admitted by the defendant before the county court judge. The defendant, however, relied upon the final words of the same sub-section, which provided that no order for possession should be made unless the court considered it reasonable to make such an order, and he submitted that it was not reasonable under the circumstances of this particular case to make the order. When the matter came on, said counsel for the appellant, as soon as the county court judge was informed that rent was in arrear he said "I always make the order if rent is in arrear." That statement by counsel for the appellant was in no way contradicted by counsel for the respondent, although he said that he did not remember exactly what took place. According to the statement of counsel for the appellant, then the county court judge took up the attitude that rent being in arrear there was no more to be said about the matter, except what was the length of time which should be given to the defendant to vacate the premises. Mr. Justice SWIFT, in his judgment, said that he did not complain because there was no judge's note: no point of law was raised, and no evidence relating to any point of law was given. The county court judge was probably quite right in not making any note about the matter, and counsel was quite right in not asking him to make a note. If the set of facts were accurate, and what they had been told had actually happened, then it was quite clear that there had never been a trial of the matter at all in the county court. No order for possession should be made unless certain facts were proved to have existed, and unless, in addition, it was proved and the court considered it reasonable

to make such an order. In considering whether it was reasonable the court must not only consider whether the circumstances which were detailed in sub-s. (1) of s. 4 had occurred, but it must give consideration to every circumstance which in any way affected the interests of either the landlord or the tenant in regard to the premises in determining whether it was reasonable to make the order. On the information before the Divisional Court the county court judge never embarked on an inquiry whether it was reasonable to make the order or not. He acted upon his rule that if the rent should be shown to be in arrear he made the order. Such a rule had no force and ought not to have been formulated or acted upon. It excluded a portion of the Act of Parliament which both parties were entitled to have given operation to. In his view there had been no trial of the case at all, and the case should be sent back in order that it might be tried.

Income-tax Misdirection.

MANY EMINENT lawyers have described income-tax matters as being beyond their comprehension, so that the layman can be forgiven for finding them impossible to understand. For the "benefit" of the ordinary taxpayer, the Revenue authorities issue shoals of literature in explanation of the law or practice, and it may safely be estimated that but a small proportion of these explanations and instructions are ever read. If many of them are drafted as carelessly as those being issued at the present time, it is just as well that most taxpayers consign them to the waste-paper basket. In the explanatory notes which accompany the notices of assessment now being issued, the maximum amount of earned income relief is shown as *tax on* £250, whereas the Acts specifically prescribe a maximum *relief* of £250. This is a serious blunder which may mislead many taxpayers. It is surprising that such a widely distributed document should be sent out without the most careful scrutiny. We suggest that our readers should bring the mistake to the notice of clients who may be affected.

Margins of Safety.

A STRANGE incident of a missing mail bag is reported in the press. When the local postman at Hoddesdon was delivering the evening mails on his bicycle he missed a bag. A motorist later handed over the missing mail bag "which he had found suspended from the door handle on the near side of the car." The handle is supposed to have "hooked" the missing bag. One comment which must be made is that the car must have passed most dangerously near the bicycle, and this illustrates a form of dangerous driving which is very common. Motorists who have never been cyclists, now the immense majority, often give very little clearance to the humbler vehicle. If all goes right it is well, but a person astride two wheels in line may very easily be thrown out of the direct track by an uneven road surface, and, if cars are passing within inches, may have a fatal accident, in fact be "hooked" and destroyed. Moreover, a succession of vehicles passing dangerously close at high speed is very trying to the nerves of a cyclist. One constantly sees him squeezed, when the whole road is available for the big vehicle. He is too often forced down on to the heavily cambered edge of a road, or on to the dust and mud which tends to lie at the edge of any road. Here he is more likely to skid, and the usual result, if he does, is that he is thrown outward. Many motor drivers seem to be persuaded that no one will ever make a mistake or have a failure. The pace of a man crossing the road is accurately estimated; almost every driver gets highly skilled in judging rates of motion. But no allowance is made for a possible stumble or hesitation. The car whizzes past the man's back, just clear, but a delay of seconds from any cause would mean injury or death. Evil is caused by want of thought, says the old adage, as true now as it was when first uttered, but it is overlooked in the present age of hurry, to the serious detriment of safety.

Remuneration by Annual Subscription.

A BIRMINGHAM paper is responsible for the statement that "a well-known firm of London solicitors" is offering to accept a retainer from any client at £5 a year, and, in exchange for that fee, to give all the advice he may require during that period. The fee is not to include the settling of any document nor the conduct of any negotiation, nor, of course, litigation. The remuneration of solicitors being subject to statutory control, the validity of such an arrangement must be considered in the light of such control. Section 2 of the Solicitors Remuneration Act, 1881, appears fairly to cover all professional non-contentious business, and s. 8 gives wide powers to solicitor and client to agree as to remuneration as to "any business to which the foregoing provisions of this Act relate." It is also expressly provided that the remuneration may be by way of salary. The question whether a general retainer for any sort of business is within the section does not appear to have been explicitly decided, but it seems to be the implied foundation of such cases as *Emmens* v. *Elderton* (1852), 4 H.L.C. 624, and similar cases. In accordance with that case, the client would be bound to pay the salary if he had agreed to do so, but would not be, so to speak, "tied" to the solicitor, and could seek advice elsewhere if he chose. A barrister who offered his professional services on such terms would no doubt be asking for trouble from his benchers and the Bar Council. The system of fixed yearly salary for services is becoming recognised in the medical profession in England, and has long prevailed in China, where the patient pays his doctor to keep him well. Whether such a scheme would pay a particular solicitor or firm of solicitors is another question, but one supposes that the client who had paid or agreed to pay his money would endeavour to obtain his money's worth, and some might even, for a consideration, obtain advice on their friends' and neighbours' troubles. It would probably be more difficult for a solicitor than a doctor to detect such a fraud on him, for the doctor should have a better knowledge of his patient's constitution than a solicitor could have of all his client's affairs of every kind. On the whole, such an arrangement would appear, at the least, to be of doubtful expediency, for it would probably only be adopted by combative and quarrelsome persons, who would try to overwork their annual cheques.

The Dog in the Motor Car again.

THE DECISION in *Fardon* v. *Harcourt Rivington* on which we commented in our issue of 12th July (Vol. 74, No. 28, p. 445), was unanimously reversed in the Court of Appeal on Thursday last (30th October). It will be remembered that the defendant was sued for damages for negligence in leaving his car with a dog inside unattended on the public highway and failing to tie up the dog in a secure manner. The dog which was jumping up and down in the car when the plaintiff passed by, put its paw through the glass panel at the back of the car, causing a splinter of glass to enter the plaintiff's eye. The eye had to be removed. Mr. Justice TALBOT left the question of negligence to the jury and the jury found for the plaintiff and awarded £2,000 damages. Lord Justice SCRUTTON, however, in delivering the judgment of the Court of Appeal, said that in his view there was no evidence that the dog had any special propensity which was dangerous, nor that the owner knew anything of any dangerous propensity. There is an obligation to keep wild animals like gorillas, tigers and monkeys under control, but no obligation to do so with regard to tame animals, such as dogs and cats, which merely exercise their ordinary propensities in jumping about. As the defendant could not, by the exercise of reasonable care, have foreseen an occurrence which had never been known to happen before, the appeal of the defendant was allowed and the verdict of the jury set aside. Motorists may now breathe a sigh of relief and continue to lock up their dogs in cars as before.

Criminal Law and Practice.

TRAINING THE POLICEMAN.—Fifty years ago, the police recruit picked up his duties as he went along; the sergeant instructed him in a rough-and-ready way, and experience did the rest. To-day, the young constable learns a great deal about a variety of subjects before he is entrusted with real police duty and its growing range of responsibilities; and while he learns something of law, something of first-aid, something of many other things, he is unconsciously assimilating something of police traditions, of *esprit de corps*, resourcefulness, imperturbability and courage. Perhaps that is why policemen, who are drawn from all classes and all districts, so rarely fail to rise to the needs of the occasion, and are equally ready to stop a runaway horse, save a drowning man, comfort a lost child, or tackle an armed thief. Fortunately, though at times they have to deal with dangerous men, our constables need no special intensive training to deal with gunmen, and the policeman, though he is apt to refer to other people as civilians, is himself very much of a civilian. The War Office takes no hand in his training. In America, however, things are very different. We read recently that the War Department there runs a school for policemen with special reference to the problem of beating the gunman.

SECOND CHANCES.—We would not for the world go back to the old methods of severity in dealing with offenders, especially those who have been guilty of only a single lapse; and we are heartily in agreement with the modern policy of reform as contrasted with revenge. Nevertheless, we sometimes wonder whether we are not forgetting that crime really is wrong; and there is something in the suggestion that more is done for wrongdoers than for the unfortunate.

Last week the press reported a case before a bench of magistrates in which a railway porter with a good character pleaded guilty to stealing money from a booking office. In answer to a magistrate, the company's representative said he was afraid the company would not give the man another chance, as it was a rule of the company. The magistrates bound over the defendant, and said to the company's representative "We will give him another chance if you won't."

The "outburst of applause in court" which followed does not surprise or impress us; the crowd at the back of a police court is not usually made up of the most thoughtful section of the community. We have no doubt that the merciful decision of the bench was entirely suited to the merits of the case. We are by no means equally sure that the railway company is wrong in making and enforcing such a rule as was indicated by its representative, though it may seem harsh at first sight. A huge company, employing hundreds of men, is bound to trust to their honesty; and it owes a duty to the public, whom it serves, no less than to its shareholders. If a man forfeits his job through stealing, he makes way for an honest man; for, unfortunately, there are only too many honest men out of work and eager to obtain it. In the old days the defendant would have been sent to prison, his home might have been broken up, and complete ruin might have resulted. In these better and more merciful days, his punishment consists of loss of reputation and forfeiture of his situation—no light penalty, it is true, but not absolutely ruinous; and the fact that he loses his job may be the justification for leniency at the hands of the law. Faced with the task of finding fresh work, he will, we hope, find willing helpers and thus gradually reinstate himself.

Men who manage to keep straight in spite of difficulties sometimes express themselves bitterly on the subject of what is done for those who come before the criminal courts. We heard recently of a man who, finding that certain admirable organisations dealt sympathetically with court cases, pleaded for help on the ground that, although he had never committed an offence, he was once quite reasonably suspected of a serious crime of which he was not in fact guilty, and thus nearly fell into the hands of the police. Let us be merciful by all means; but let us try to see everyone's point of view.

Gamekeepers.

WITH the shooting season getting into full swing there will be many incidents arising in which the provisions of the game laws will have to be looked into, and country solicitors will find it useful to have some practical points at their fingers' end in readiness to advise.

The position and powers of the gamekeeper often figure largely in these incidents; and it is safe to assert that very few of the individuals concerned in sporting have anything like an accurate knowledge of what a gamekeeper's rights, duties and liabilities really are. There are many gamekeepers who are obsessed with the idea that they can take his gun away from a trespasser who is carrying one; but they cannot, except in certain circumstances (to be hereinafter explained). Many similar misunderstandings exist—due undoubtedly to the complexities of the statute law relating to game which badly needs revision and consolidation.

At present we are concerned with gamekeepers. The position and authority of a gamekeeper depend upon the circumstances and manner of his appointment. A gamekeeper appointed by the lord of a manor stands in a very different position from that of a gamekeeper not so appointed. This distinction arises out of the Game Act, 1831, ss. 13 to 16 of which should be read in this connexion. The first (13) provides that any lord of a manor, lordship or royalty (or "reputed" manor, lordship or royalty) or any steward of the Crown of such as appertain to His Majesty, may by writing under his hand and seal appoint one or more person or persons as a gamekeeper or gamekeeper to preserve or kill the game within the limits of such manor, lordship or royalty, or reputed manor, lordship or royalty, for the use of such lord or steward thereof. He may also authorise the persons appointed "within the said limits to seize and take, for the use of such lord or steward, all such dogs, nets, and other engines and instruments for the killing or taking of game as shall be used within the said limits by any person not authorised to kill game for want of a game certificate."

The expression "for want of a game certificate" would seem to govern this right of seizure entirely, and to limit the right to cases of trespassers who have no game certificate. Supposing therefore a trespasser who is the holder of a game certificate should be found upon the land of a manor using dogs, nets and other engines and instruments for killing or taking game, it would appear that no right of seizure of dogs, nets, etc., would apply to him under this section though he might be deprived of any game in his possession under s. 36:—

> "When any person shall be found by day or by night upon any land . . . in search or pursuit of game, and shall then and there have in his possession any game which shall appear to have been recently killed, it shall be lawful for any person having the right of killing the game upon such land, or for the occupier of such land or for any gamekeeper or servant of either of them, or for any person acting by the order and in aid of any of the said several persons, to demand from the person so found such game in his possession, and in case such person shall not immediately deliver up such game, to seize and take the same from him, for the use of the person entitled to the game upon such land . . ."

Herein may be seen a practical illustration of the difference between the powers of a gamekeeper appointed by a manorial lord and one not so appointed or an underkeeper or servant of lesser degree. The gamekeeper of the lord of a manor (whose appointment—*vide* s. 16—must be registered with the clerk of the peace) may seize dogs, nets and other "engines" in the possession of a trespasser who has no game licence and may *retain* them for the use of his lord. But no subordinate may do this, nor may a gamekeeper appointed by any person other than a manorial lord or steward. On the other hand, s. 36 authorises a gamekeeper or servant of any occupier of land who holds the sporting rights to seize for his employer's

use any *game* (not dogs, nets or other "engines") found in his possession.

The foregoing should be contrasted with the provisions of s. 2 of the Poaching Prevention Act, 1862, which authorises a *police constable* to search upon the highway any person whom he may have good cause to suspect of coming from land where he has been unlawfully in pursuit of game. In that case the police-constable may seize and detain any game, gun, nets or "engines"; but the things so seized will have to be restored to the person from whom they have been taken unless he is convicted—in which case they will be forfeited and sold, not for the benefit of the occupier of the land upon which poaching has been going on, but for the benefit of the local county or borough fund.

Here again it should be noted that a *gun* may be seized and subseqnently forfeited. Reference back to s. 13 of the Act of 1831 (which authorises the gamekeeper appointed by the lord of a manor to seize "engines" for the use of his lord) will disclose no mention of *guns*. It might be supposed that a gun would be comprised within the generic term of "other engines," but that is not so. It was held in *Daddle* v. *Hickton* (1868), 17 L.T. 549, that such was not the case. That probably accounts for the separate mention of "gun" in s. 2 of the 1862 Act. "Engine," however, does include a snare: see *Allen* v. *Thompson* (1870), 5 Q.B. 336. It will thus be seen that there is a fallacy underlying the idea commonly held that a gamekeeper may demand the gun which is being carried by a trespasser. He may *not* do any such thing. A police constable, on the highway or in some other public place, may deprive a suspected poacher of his gun under the Poaching Prevention Act, as stated above; but not even a gamekeeper appointed by the lord of a manor may do that, much less a gamekeeper appointed by any other holder of sporting rights. Of course, when a poacher armed with a gun is arrested under the Poaching Acts, his gun and other belongings are taken charge of by the authorities; but that is an entirely different thing from supposing that any gamekeeper or servant of the owner of sporting rights may go up to a trespasser and demand possession of his gun, a mistaken impression many gamekeepers have.

Another point that needs to be clearly understood relates to the right of a gamekeeper to demand production of a trespasser's licence. Now the law on that subject is very clearly expressed in s. 10 of the Game Licences Act, 1860, which reads as follows:—

> "If any person shall be discovered doing any act whatever in Great Britain in respect whereof a licence to kill game is required under this Act, by any officer of Inland Revenue, or by any lord or gamekeeper of the manor, royalty, *or lands* wherein such person shall then be, or by any person having duly taken out a proper licence to kill game under this Act, or by the owner, landlord, lessee, or occupier of the land on which such person shall then be, it shall be lawful for such officer or other person aforesaid to demand and require from the person so acting the production of a licence to kill game issued to him; and the person so acting is hereby required to produce such licence to the person so demanding the production thereof, and to permit him to read the same, and (if he shall think fit) to take a copy thereof or of any part thereof; or in case no such licence shall be produced to the person demanding the same as aforesaid, then it shall be lawful for the person having made such demand to require the person so acting forthwith to declare to him his christian and surname and place of residence, and the place at which he shall have taken out such licence; and if such person shall, after such demand made, wilfully refuse to produce and show a licence to kill game issued to him, or in default thereof as aforesaid to give to the person so demanding the same his christian and surname and place of residence, and the place at which he shall have taken out such licence, or if he shall produce any false or fictitious licence, or give any false or fictitious name or place, or if he shall refuse to permit any licence which he may produce to be read, or a copy thereof or of any part thereof to be taken, he shall forfeit the sum of twenty pounds."

Now the wording of this section should be carefully observed, as it indicates precisely who are the persons entitled to make such a demand of a trespasser. It is quite clear that *any* gamekeeper (not merely a gamekeeper appointed by a manorial lord) and any other person who himself holds a game licence may thus challenge a sportsman to produce his game licence. It has been decided, however (*Molton* v. *Rogers* (1802), 4 Esp. 215), that so long as the person challenged gives his name and address he need not produce his licence. It has also been held that the challenger is not under any obligation to produce his own licence (*Scarth* v. *Gardener* (1831), 5 C. & P. 38).

It is also to be noted that "game" for the purposes of the Game Licences Act includes rabbits ("coneys"). It follows, therefore, that only persons specially exempted (e.g., under the Ground Game Act, 1880) may go rabbit-shooting without a game licence; and the gamekeeper employed by an estate owner who reserves his own sporting rights might find it interesting to invite the farmer's friends who have "come to shoot rabbits" to produce their game licences! The writer of these lines knew a county court judge (no longer living) who was once invited to produce a game licence when rabbit-shooting and confessed his great surprise at the request. The learned judge had only a 10s. gun licence! So widespread are these erroneous ideas about the game laws!

Official Certificates of Search.

Our popular contemporary, *Law Notes*, has raised in its columns a point of some practical interest to conveyancing solicitors. In a short note it suggests that official certificates of search should be abstracted and, where not handed over on completion, included in the usual statutory acknowledgment and undertaking. While there is much to commend this practice, we do not think that the majority of conveyancers adopt it at present, and many of them would consider the suggestion as an additional "humbug" to which they would not consent to be parties, and who would deny that they might not be right?

The reason for the plea that official certificates of search should be abstracted is not given, but presumably it is based on the fact that once a charge is registered such registration constitutes actual notice to all persons and for all purposes connected with the land affected. Consequently, a solicitor investigating title and finding from his abstract that upon given dates official certificates of search were obtained, showing that no entries were found to be subsisting against the names of the persons mentioned in the respective searches, would presumably be justified in considering that up to the date of the last search the property was free from all registerable charges. This argument is, however, considerably qualified by s. 17 (3) of the Land Charges Act, 1925, which states that "in favour of a purchaser or an intending purchaser, as against persons interested under or in respect of matters or documents whereof entries are required or allowed as aforesaid, the certificate, according to the tenor thereof, shall be conclusive, affirmatively or negatively, as the case may be." So that if a slight mistake either as to the correct names of a previous vendor or of his address was made in the search, that particular certificate would not be of any material use, if, in fact, a charge was registered against him in his correct name or address. In this way more harm than good would be done by abstracting certificates, as in actual practice it is certain that in most offices the damping effect of this section would

be overlooked and thus too much reliance, commensurate with prudence, placed upon the official certificates of search.

Those meticulous practitioners, and they are not a few, to whom any expense is justified if it but removes the remotest risk, would be well advised to turn their attention from agitating for the abstracting of official certificates to urging their staffs to search against each owner since 1st January, 1926, of every property whose title they are instructed to investigate; and indeed, in view of the decision in *Re Forsey and Hollebone's Contract*, in making these searches before any open contract is signed. For only in this way can they be absolutely certain of protecting their clients' interests. But the practical, businesslike lawyer who is anxious to save his client every possible expense will be content, unless there are exceptional circumstances which put him specially on his guard, to continue his present practice of searching only as against the last estate owner for value. By doing so, he will, in nine hundred and ninety-nine cases, protect his client, and, in every case, will safeguard himself against any possible action for negligence.

In considering whether official certificates should, where not handed over on a completion, be included in the usual statutory acknowledgment, it must be conceded that such a practice would be the logical outcome of abstracting these certificates; but it is a significant fact that neither the draftsman of the Law of Property Act in compiling the Specimen Abstracts of Title, nor the editors of the various books of precedents have in any way indicated that this diversion from the usual practice should be adopted.

Company Law and Practice.

LI.

EXERCISE OF VOTING RIGHTS.—I.

A SHAREHOLDER in a company cannot exercise his right of voting exactly as he pleases, for, apart from the fact that he may be bound in some way, as, for instance, by contract, or as trustee, to vote in a particular way, the law has stepped in and said that there are certain things which he may not do when it comes to exercising his power of voting as a member, either of the company, or of a particular class of members of the company.

A shareholder is not debarred from voting as he thinks fit at general meetings of the company by reason of the fact that he is personally interested in the matter on which the vote is being taken; a director, it will be remembered, is debarred from voting in such a case at directors' meetings, unless and except in so far as he is there allowed to vote by the articles. This disability of directors is a long standing rule, which is quite outside any statutory provision, and arises from the application of the well-known principle that duty and interest must not be allowed to conflict; but, though a director may be debarred from voting at a directors' meeting by reason of his interest in the subject-matter of the vote, yet as a member of the company he may vote at a general meeting of the company in regard to a matter in which he is personally interested (*East Pant Du United Lead Mining Co. Ltd.* v. *Merryweather* (1864), 2 H. & M. 254). Sir W. PAGE WOOD, V.-C., as he then was, says in his judgment in this case, at p. 261: "Now, as to the management of the company by the board, no director is entitled to vote as a director in respect of any contract in which he is interested; but the case is different when he acts as one of the whole body of shareholders. The shareholders of one company may have dealings with interests in other companies, and therefore it would be manifestly unfair to prevent an individual shareholder from voting as a shareholder in the affairs of the company."

This case is not one of very wide application, for it seems to turn largely on whether an article to the effect that a director should not be qualified to vote as a director in respect of any matter in which he was personally interested could be construed so as to prohibit a director from voting at general meetings of the company in such a case; but, purely on principle, and apart from the articles, it seems that, whereas an interested director cannot be allowed to vote as such (unless the articles permit him to), because he is to some extent a trustee for the shareholders, there is no reason why he should not vote as a shareholder (unless the articles forbid it), for here he is not a trustee for the other shareholders, but is concerned only for himself or for the persons interested in the shares registered in his name. A case in which the vote in general meeting of an interested director on a resolution for the ratification of a contract entered into by the board turned the scale in favour of such ratification and was held to be properly given is found in *North West Transportation Co. Ltd.* v. *Beatty* (1887), 12 A.C. 589.

As pointed out earlier in this article, a person may bind himself by contract to vote in some particular way (*Greenwell* v. *Porter* [1902] 1 Ch. 530); and in the case of an agreement by a mortgagee of shares to vote as directed by the mortgagor, a mandatory injunction has been granted to compel the mortgagee to vote in accordance with a direction by the mortgagor (*Puddephatt* v. *Leith* [1916] 1 Ch. 200).

A person holding shares as trustee for some other person is bound to vote as that other person desires, but unless and until the beneficiary indicates his desire as to how the trustee is to vote, the trustee may exercise the voting power vested in him as trustee, and according to his discretion in the best interests of his beneficiary (see per ROMER, J., in *Kirby* v. *Wilkins* [1929] 2 Ch. 444, at p. 454).

(*To be continued.*)

A Conveyancer's Diary.

Appointments of Trustees in place of the Public Trustee.

I propose to discuss this week the question whether "persons interested" in land held in trust for persons in undivided shares where the entirety was vested in the Public Trustee upon the statutory trusts under the transitional provisions of the L.P.A., can properly appoint themselves, or one or more of themselves, to be trustees in the place of the Public Trustee.

The pertinent provision is contained in the L.P.A., 1st Sched., Pt. IV, para. 1 (4) (iii) (as amended by the L.P.A., 1926), which, so far as material, reads:—

> "Subject as aforesaid any persons interested in more than an undivided half of the land or the income thereof may appoint new trustees in the place of the Public Trustee with the consent of any incumbrancers of undivided shares (but so that a purchaser shall not be concerned to see whether any such consent has been given) and thereupon the land shall by virtue of this Act vest in the persons so appointed upon the statutory trusts."

There is no such provision in this enactment as that contained in s. 36 of the T.A., which expressly states that the persons having power to appoint new trustees under that section "may by writing appoint one or more other persons (whether or not being the persons exercising the power) to be a trustee or trustees," etc.

It is said that the express power to appoint themselves contained in the latter section was necessary because the power is to appoint "one or more *other* persons," and the word "other" means a person or persons other than themselves, and not persons other than the trustees in whose place the new trustees are being appointed. The absence, therefore, of the express power to appoint themselves in L.P.A., 1st Sched., Pt. IV, para. 1 (4) (iii), does not imply that no such power was intended to be given, as the power there is not to appoint

"other persons" but to appoint "new trustees." Consequently, it is contended, there being no prohibition against the persons appointing in place of the Public Trustee appointing themselves, there is no reason why they should not do so, bearing in mind that appointors under s. 36 of the T.A. may do so.

As the power in Pt. IV to appoint in place of the Public Trustee is worded differently from the power in s. 36 of the T.A., I think that it may be best to take the former alone and consider what the proper construction of it is without attempting to draw any analogy in this respect between the two enactments.

It is necessary, in the first place, to look at such authorities as there are on the point. I will take first those which appear to be against the validity of appointments by the appointors of one or more of themselves.

In *Re Skeats' Settlement; Skeats* v. *Evans* (1889), 42 Ch.D. 522, the facts were that by a marriage settlement property belonging to the wife was settled upon trusts in favour of the wife, her children and appointees and next of kin, and it was provided that if any trustee should die or go to reside abroad, or desire to retire from or refuse or become incapable of acting in the trusts, the husband and wife during their joint lives might "appoint any other person or persons to be a trustee or trustees in the place of the trustee or trustees so dying," etc. The husband and wife purported to appoint the husband and another person to be trustees in the place of retiring trustees.

It was held (1) that a power of appointing new trustees being fiduciary the donee of such a power cannot appoint himself, and (2) that the terms of the power required that the trustee or trustees to be appointed should be some person or persons "other" than the person or persons making the appointment.

That decision was followed in *Re Newen, Newen* v. *Barnes* [1894] 2 Ch. 297, which was also a case of an appointment under an express power to appoint "any other proper person or persons" to be a trustee or trustees. In the judgment in that case, as in *Re Skeats' Settlement*, emphasis was laid on the power to appoint being a fiduciary power as well as on the point that the power was to appoint some "other" person or persons meaning some person or persons other than the appointors.

The court did not, however, hold that the appointment by the donees of the power of one of themselves was an invalid appointment, but required the person so appointed to retire before the funds (which were in court) were handed over to the trustees.

Re Sampson, Sampson v. *Sampson* [1906] 1 Ch. 435, was a case upon the statutory power of appointing new trustees conferred by s. 10 (1) of the T.A., 1893. It will be remembered that the power conferred by that enactment was to appoint "another person or persons," and the learned judge based his decision on the ground that "another person or persons" must mean some person or persons other than the appointors.

I turn now to those authorities which seem to support the view that persons who have the power to appoint trustees in place of the Public Trustee may appoint themselves or one or more of themselves.

In *Tempest* v. *Lord Camoys* (1888), 58 L.T. 221, the trusts of a will were being executed under the direction of the court. The will contained a power, where an appointment of new trustees became necessary, for certain persons therein mentioned "to appoint one or more person or persons to supply the vacancy which might have happened or be about to happen in the trusteeship." The donees of the power (who were beneficiaries under the will) proposed to appoint one of their number to be a trustee in the place of a trustee who had died. An objection being taken by another beneficiary, a petition was presented for the sanction of the court to the proposed appointment. The court made the appointment stating that it was made both under the jurisdiction of the court and under the power contained in the will.

In the course of his judgment Chitty, J., said: "Now, it has never been decided that the donees of a power could not appoint themselves . . . I am very desirous of not saying anything in the present judgment which would countenance the opinion that it was the right of the sole donee of power or a tenant for life to appoint himself. If there were trust funds, in my view of the case, that would not be a proper appointment. Even then if the court were asked to express its opinion as to the validity of the appointment, it might be that the court would say that it was a valid appointment in the circumstances of the case." And again, "There is no limitation, as I have said, in the language of this power, the words being 'one or more persons' without any limitation. There is nothing to show in the terms of the testator's will that it is to be some persons other than the donee of the power."

A later case is *Montefiore* v. *Guedalla* [1903] 2 Ch. 723. There the donees of the power to appoint new trustees were the executors of a last surviving trustee, and they proposed to appoint one of themselves and two other persons. The power in the will read that "it should be lawful for the persons therein mentioned to appoint a new trustee or trustees in the place or stead of such trustee so dying, etc."

Buckley, J., sanctioned the appointment. In his judgment the learned judge reviewed the authorities. He said: "The first step is to look at the language of the power. Where you find that the power is to appoint some 'other' person, the question may arise whether that means some person other than the appointor. In such a case the donee of the power may not be amongst the persons capable of being appointed. But in the present case the word 'other' does not appear. The words of the power are simply 'to appoint a new trustee or trustees'; so that by the language of the instrument the executors, who are the appointors, are not excluded from the class. On the cases I am clearly of the opinion that it has not been laid down that the appointors are outside the class who can be appointed, although it has been said, and it is a very salutary rule, that an appointor ought not, save in exceptional circumstances, to appoint himself." I think that by the concluding words of that paragraph the learned judge meant that it was a salutary rule that a sole appointor could not appoint himself as a sole trustee.

That is how the matter stands so far as the authorities are concerned.

It seems to me that as the word "other" does not occur in L.P.A., 1st Sched., Pt. IV, para. 1 (4) (iii), the cases more directly in point are *Tempest* v. *Lord Camoys* and *Montefiore* v. *Guedalla*. The other cases are, however, important as showing that the power of appointment is a fiduciary power and must be exercised as such.

The result appears to be that persons interested in more than one-half of the land or the income who have power to appoint trustees in place of the Public Trustee, may appoint themselves, but should not, in the absence of special circumstances, do so unless the other "persons interested" agree, as it might be that the court would consider that the power had not been exercised in a fiduciary manner. The appointment would, however, be voidable, not void, and the mere fact that the appointors had appointed themselves would not, I think, be sufficient to induce the court to set it aside.

It follows, of course, that where all the persons interested join in appointing themselves or acquiesce in such an appointment, the appointment is valid.

Mr. Arthur McDouall Hannay, solicitor, of Howbeck-road, Birkenhead, senior partner of Hannay, Horton & Cook, Castle-street, Liverpool, left estate of the gross value of £8,137, with net personalty £7,083.

Landlord and Tenant Notebook.

What is an Agricultural Holding?

The interpretation section of the Agricultural Holdings Act, 1923 (s. 57), says that "'holding' means any parcel of land which is held by a tenant which is either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral . . ." A contract of tenancy is "a letting . . . for a term of years, or for lives, or for lives and years, or from year to year." By s. 33, the provisions of the Act that relate to compensation for improvements and for disturbance apply to premises which do not answer to the description of an agricultural holding. This section, unlike s. 57, had no counterpart in Acts prior to that of 1920.

In the recent case of *Re Joel's Lease: Berwick* v. *Baird* (1930), W.N. 148, a sporting attempt was made to bring a "stud farm" within the provisions of the Act. The question (raised on an originating summons) was whether, the lease being for a fixed term, notice to quit was necessary. Apart from the fact that the premises were described as a stud farm, the tenant could point to various covenants with what one might call a bucolic sound about them, such as a covenant to use the grass lands in a reasonable manner, a covenant to keep the turf well and evenly grazed down at least once a year by suitable mixed stocking and by mowing, and a covenant to keep the lands free from rubbish. The suggestion was that the holding was wholly pastoral; but Maugham, J., decided the question by looking to the substantial purpose for which the property was designed and used, admittedly that of breeding racehorses, and held that it was outside the Act. It was true that part of it might have been called pastoral, but then s. 33 above mentioned did not apply the provisions as to determination.

The provisions of s. 33 were inserted to meet a difficulty illustrated by the case of *Re Lancaster and Macnamara* [1918] 2 K.B. 472, C.A., in which a tenant of a fully licensed house unsuccessfully claimed compensation for improvements to some 86 acres of meadow and pasture attached to it. The inn was a substantial building and a profitable concern, and the Court of Appeal could not accede to an argument that the holding was "wholly pastoral." Some guidance was afforded by a dictum of Lord Watson in the older Scottish case of *Black* v. *Clay* [1894] A.C. 368. This was one of those cases in which a tenant had, pursuant to his agreement, quitted the premises piecemeal, and Lord Watson remarks (p. 382) that he doubts whether the bare possession of a barn, a barn-yard and two cot-houses unconnected with any land is possession of a holding.

In *Re Russell* v. *Harding* (1922), 128 L.T. 476, the limits of the rule followed in *Re Lancaster and Macnamara, supra*, were laid down. The premises consisted of an ordinary farm and farmhouse and the tenant had covenanted to use them for farming. As he had no occasion to use the house, he sub-let it to a lady who first used it as a sanatorium and then as a guest-house, taking paying guests. This was done with the consent of the superior landlord. The sub-tenant gave up possession to the superior landlord shortly before the notice to quit given to the mesne tenant expired. In these circumstances it was held that *Re Lancaster and Macnamara* afforded no authority.

The qualifications of "contract of tenancy" certainly suggest that the Act is not intended to apply to a lease or tenancy for less than a year certain; the dropping of lives during the first year of a lease for lives is dealt with by provisions as to notice to quit in a special section (s. 23), implementing those of s. 22, which apply in ordinary cases. The definition is the same as that contained in earlier statutes, and it may be that the Legislature, having regard to the usual periods for which farm properties are let, has deliberately refrained from adding to the qualifications. The position was exhaustively reviewed by a county court judge at Biggleswade as long ago as 1892 in the case of *Lockhart* v. *Osborn*, 36 SOL. J. 365 (and see comments on p. 358), in which a holding had been let for a year certain. The judgment cites the Interpretation Acts in dealing with the expression "term of years," considers the usages of husbandry, the policy of the Act viewed as a whole, and the unlikelihood of any farm being taken for less than a year, arriving at a conclusion that such a tenancy was within the statute.

This is the only actual reported decision on the point, though some years later, in *King* v. *Eversfield* [1897] 2 Q.B. 475, C.A., A. L. Smith, L.J., said, *obiter*, "It seems to me that the intention . . . was that a tenant should not be entitled to compensation . . . if his tenancy was less than a tenancy from year to year."

Our County Court Letter.

RECOVERY OF POSSESSION ON TENANT'S CONVICTION.

IN the recent case of *Johnson* v. *Hampton* at Liverpool County Court the applicant claimed to recover possession of a dwelling-house under the Increase of Rent, etc., Act, 1920, s. 5 (*b*) (as amended by the Rent, etc., Restrictions Act, 1923, s. 4), on the ground that the defendant had been convicted of keeping and using the premises as a common gaming house. The defendant's case was that she had been persuaded to allow two "Clown" machines to remain on the premises, having been assured by an agent that they were legal, as stated by a ticket or label fixed to the machines. This being a solitary offence, it was contended on her behalf that the further requirement of the section had not been complied with, viz., "the court considers it reasonable to make such an order or give such judgment." His Honour Judge Dowdall, K.C., observed that an ejectment of the defendant would mean that she would be punished a second time for the same offence. The application was therefore dismissed, leave to appeal being given.

On the other hand, an isolated conviction was held to entitle the landlord to possession in *Young Men's Christian Association* v. *Gee* [1925] 1 K.B., at p. 303 (N). The notice to quit was given in June, 1921, but the defendant had paid an increased rent until March, 1924, when she was convicted at Birmingham Quarter Sessions of receiving stolen goods, being sentenced to four months' imprisonment in the second division. His Honour Judge Amphlett, K.C., therefore made an order for possession, but the defendant appealed on the grounds that (1) the notice to quit had only been given for the purpose of raising the rent, (2) this had been subsequently accepted for nearly three years, so that (3) a new tenancy had been created. The judgment was upheld, however, in the Divisional Court, where Lord Darling pointed out that the defendant had lost the protection of a statutory tenant by reason of her conviction. Mr. Justice Rowlatt concurred in dismissing the appeal.

The scope of the above section (as regards the nature of the convictions referred to) was considered in *Schneider and Sons Limited* v. *Abrahams* [1925] 1 K.B. 301. The premises were let on a weekly tenancy, but at a rent which excluded the jurisdiction of the county court, and possession was claimed on a specially indorsed writ. The defendant had been convicted of receiving stolen goods, and was sentenced to five weeks' imprisonment, but he relied upon s. 4 (*supra*). Mr. Justice Talbot held that "using the premises" implied a continuous or systematic user, and gave judgment for the defendant, but this was reversed in the Court of Appeal. Lord Justice Bankes held that, while it was necessary to show that the tenant had taken advantage of his tenancy (to provide an opportunity for the offence), the facts were distinguishable from cases relating to breaches of the licensing laws, in which one offence was no ground for recovery of

possession. Lord Justice Scrutton agreed that it was enough if there had been a conviction for a crime committed on the premises, if the latter had been used for the purpose of committing the crime, but that it would not suffice if the crime was one with which the premises had no connexion, except for being the scene of its commission. The present Lord Atkin pointed out that if the tenant planned a robbery, and lured his victim to the premises, it would suffice if they were once so used, although a casual assault in the course of an innocent user would not entitle the landlord to possession. The appeal was therefore allowed, and judgment was given for possession.

This decision did not conflict with *Waller and Son Limited* v. *Thomas* [1921] 1 K.B. 541, in which the Divisional Court (Mr. Justice Lush and Mr. Justice McCardie) held that something more than an isolated act of illegality must be proved, in order to justify an order under s. 4 (*supra*). The question in that case, however, was whether a licence had been imperilled, and further reference may be made upon this point to a County Court Letter entitled "Ejectment of Licensee on Conviction" in our issue of the 12th July (74 Sol. J. 456).

Practice Notes.

THE REMUNERATION OF ESTATE AGENTS.

(*Continued from* 74 Sol. J. 563.)

III.

Ratification of the action of a discharged clerk will not necessarily sustain a claim to commission, as shown by the recent case of *Torbay Estates Limited* v. *Earle* at Torquay County Court. The plaintiff company were auctioneers and estate agents, their case being that the defendant's instructions to sell had been given to one of their clerks, who had entered particulars in their register, but no inquiries had resulted. The defendant had then herself advertised the house under a newspaper box number, but she handed the replies to the same clerk, who was afterwards dismissed, and took the papers with him. Eventually a purchaser was found at the price of £1,116, upon which the plaintiff company claimed £30 7s. 6d. from the defendant, who denied having instructed them to act. The defendant's case was that (1) her only efforts to sell the house had been by means of advertisements; (2) she had given the replies to a friend to deal with, in ignorance of the fact that he was a clerk to the plaintiff company; and (3) she had already paid him £5. Corroborative evidence was given by the clerk, who explained that it was only for his own convenience that he had entered the particulars in the books of the plaintiff company, to whom he had since returned the contract and correspondence. His Honour Judge The Hon. W. B. Lindley observed that the plaintiff company had undoubtedly done the work, which would have entitled them to commission—if they had been retained by the vendor. There was no evidence, however, that the clerk had ever been employed as an estate agent by the defendant, who was therefore entitled to judgment with costs.

The difficulty of recovering commission, if the client has advertised the house in a newspaper, was also recently illustrated at Bournemouth County Court in *Scott* v. *Slade*, in which the claim was for £21 5s., being money wrongly deducted from the proceeds of sale. The plaintiff's case was that, having found a purchaser by advertisement, she referred him to the defendant to negotiate a mortgage, but the defendant contended that the completion took place as a result of his efforts, as (1) before the purchaser had made up his mind, the plaintiff asked the defendant to use his influence; (2) the defendant had thereupon motored the purchaser to the house, to demonstrate its view of the sea; (3) the contract was signed and the deposit was paid at the defendant's office in the presence of both parties. His Honour Judge Hyslop Maxwell gave judgment for the plaintiff, who agreed to the retention by the defendant of £5 previously promised as an *ex gratia* payment.

POINT OF IMPACT IN COLLISIONS AT SEA.

The importance of the exact location of the above, when in narrow waters, was shown in the recent case of "*The Glengynack*," at Lowestoft County Court. The owners of the "Herring Ho!" claimed £84 15s. 8d. as the result of a collision when leaving the harbour on a rough and dark night, at a speed of about 4 knots. On sighting the defendants' vessel, the master of the "Herring Ho!" blew three blasts, and ran his engines astern, but his vessel was struck on the port bow and was driven on to the steps of the south pier. The plaintiffs' case was that the "Glengynack" had not opened up the harbour properly, as she should have entered on her starboard side. The defendants, however, contended that (1) their vessel had observed the rules, but (2) the tide was ebbing at about 3 knots and there was a S.-S.W. gale, with a wind force of six, so that the "Herring Ho!" had been blown to leeward into the bight of the east jetty, and was endeavouring to leave the north pier when the collision occurred. His honour Judge Herbert Smith, sitting with nautical assessors, accepted the evidence of two retired masters, who saw the collision and stated that the "Herring Ho!" was leaving the harbour correctly. It was therefore held that the collision occurred off the east end of the south pier, and, as the "Glyngynack" was negligent in being on the wrong side, judgment was given for the plaintiffs, with costs.

Legal Fictions.

X.

English Law for Foreign Tourists.—II.

At the Wine Merchant's.

Enter the Intelligent Foreign Tourist.

I. F. T. (to 1st Assistant): I want, if you please, a small bottle of ze *eau de vie*.

1st Assistant (to 2nd ditto): Wot's Odour V, Bill? Do we stock it?

2nd A.: Don't think so. Sounds like some kind of smelling salts.

I. F. T.: Smellings salts! Bah! No, he is not ze smelling salts. He is—what you call him?—ze brandy, ze *cordon bleu de* Martell.

1st A.: Oh, Martell's cordon blue; yes, we have that. (*Reaches down a quart bottle.*)

I. F. T.: No, no. I do not want a large bottle. A quarter-bottle, how you say it, a neep, will suffice. Just to fill a pocket flask.

1st A.: Sorry, sir, can't sell you less than a quart bottle, or its equivalent. You can have two halves or four quarters if you like.

I. F. T.: Oh, mon Dieu! Ze early closing day again!

1st A.: No, sir, but we have only an off-licence and may not sell less than a quart of spirits at once. If you like to buy a bottle of whisky you can have a quarter of brandy as well.

I. F. T.: Thank you: I do not drink ze whisky. But ze brandy keeps out ze cold of your English summer. I have travelled in search of him for two months. When I land—in a fog—ze radio says: "Fine in ze north-west"; so I go to ze Lake District, where it rains. Ze radio says: "Sunny in the south-east," and I return to Folkestone for ze thunderstorm. It says: "Heat wave in ze south-west," and I find ze snow-storm raging at Penzance. Oh, yes, ze English summer is beautiful. But always I have my little flask with me to keep out ze cold. Why must I buy ze large bottle?

1st A.: The idea is to make people drink less spirits.

I. F. T.: Aha! You have your little joke. You draw me the legs, is it not so? To make me drink less, I must buy more than I need. But your laws so logical, I want to

understand, if I can. Suppose I bought ze big bottle, I can have a little one too ?

1ST A.: Oh ! yes, as many as you like.

I. F. T.: And of brandy or any other spirit ?

1ST A.: Yes.

I. F. T.: May I have a quarter of brandy, a quarter of gin, and a quarter each of kümmel and maraschino ?

1ST A.: No; must have a quart of one kind.

I. F. T.: I see; now if I bought ze big bottle, and zen when I got to ze door remembered zat I wanted a little gin, and came back, must I start all over again ?

1ST A.: Oh ! no, we should consider that part of the same sale.

I. F. T.: But if I got to ze end of ze road or came back in half-an-hour, or an hour—what zen ?

1ST A.: If you'd already had your bottle, sir, I should think it'd be all right.

I. F. T.: And ze next day, or ze next week, or ze next year ?

1ST A.: Well, hardly that, sir, but Gawd knows when the sale *is* finished.

2ND A.: By-the-bye, George, if the gent wants a quarter bottle, they might oblige him at the pub. It'll just be open now.

1ST A.: That's right; you go along to the "Jix and Dora" at the corner, and tell the landlord we sent you. He often obliges our customers, when we mayn't serve them.

I. F. T.: But surely he may not serve me either.

1ST A.: Oh yes ! he can sell any quantity he's asked for. He has a publican's licence. I'll send the boy over to see if he can oblige you. (*The boy is sent, and returns with the following message*) :

BOY: The landlord says he's out of quarters, but if you'll send him over four, he can do with them and can let this gent have one.

(*The procession moves off, boy leading with four quarter bottles of brandy, I. F. T. following a yard behind. On arrival at the* "Jix and Dora" *boy hands bottles to barman, who hands one to I. F. T. and receives payment.*)

I. F. T.: I make a note of ze English laws to amuse my countrymen. Ze brandy in ze little bottle, you may buy him at ze public-house at ze corner, but not at ze wine merchant's two doors away; but ze wine merchant may sell him to ze publican to sell to you. Good: I will also make my little joke. Next time I go to Penzance for ze snow-storm and zey say: "Come across to ze Scilly Island," I will reply "*Non, mon ami*; I am on him already." (Exit.)

Reviews.

Phipson on Evidence. Seventh Edition. By ROLAND BURROWS, assisted by C. M. CAHN. London: Sweet and Maxwell, Ltd. £2 2s. net.

Before saying anything about the present edition, the reviewer must pay his tribute to the learned author of a great book. He died before he could prepare the seventh edition for publication. As the editor of that edition says, Mr. Phipson's "reputation rests securely upon the treatise."

Fortunately, there had been made extensive preparations for the new edition, and his notes have been used in it. In particular he had intended as a chapter of the book the exceedingly useful matter which now appears as the "Appendix on proof of birth, death and marriage."

The new editor and his assistant have had considerable work in revision. The law of evidence offers no exception to the steady and even luxuriant growth of law in the twentieth century. The multiplication of new statutes dealing with substantive law, by increasing the work of the courts and furnishing a constant supply of new points for examination, naturally tends to the fuller development of the adjective law of which the Law of Evidence is a branch. Old rules receive new illustrations. New law, always with the decent pretence that judges never legislate, is constantly emanating from the High Court. The new matter thus forthcoming has been in this book very carefully and well dovetailed into the old.

It is always fair to test a text-book by reference to some point which has arisen upon its subject-matter since its production. The case of *R.* v. *Lapworth* (1930), 74 SOL. J. 735, presents such a point. Phipson turns out to be wrong, and this is not merely that the pronouncement of the court on a moot point must be right, but that the good reasons given for the judgment are fatal to the statement in the book. But it is easy to be wise after the event, and a reviewer who also happens to be an author is disposed to be very charitable on these occasions. Let it be said that so far it is the only blemish he has discovered in a good and solid piece of work. Necessarily, the examination of such a work cannot be complete, but it has been thorough and justifies high praise. Moreover, the earlier editions have been in the reviewer's constant use, and no one goes on using a book of which he thinks ill.

Books Received.

Company Secretarial Practice. ALFRED PALMER, A.S.A.A., Incorporated Accountant. 1930. Crown 8vo. pp. xii and (with Index) 356. London: Longmans, Green & Co. 6s. net.

The Law relating to Local Government Audit. Being a Statement of the Law relating to the Audit of the Accounts of Local Authorities by District Auditors and Borough Auditors. WILLIAM A. ROBSON, LL.M., Barrister-at-Law. 1930. Demy 8vo. pp. xxi and (with Index) 242. London: Sweet & Maxwell, Ltd. 17s. 6d. net.

Henderson & Maddock's Housing Acts, 1925 and 1930. A Treatise on the Housing Act, 1930, including the complete text of the Act, annotated and explained, and in addition the principal Act, the Housing Act, 1925, as amended, together with other housing legislation unrepealed, and Appendices, relevant Official Circulars and Statutory Rules and Orders, with full Tables of Statutes and Cases and a detailed Index of the whole. ARTHUR HENDERSON, B.A., LL.B. (Cantab.), Barrister-at-Law, and LESLIE MADDOCK, B.A. (Oxon), Barrister-at-Law. 1930. Medium 8vo. pp. xviii and (with Index) 514. London: Eyre and Spottiswoode, Publishers, Ltd. 27s. 6d. net.

The Principles and Finance of Fire Insurance. F. W. CORNELL, Lecturer to the Insurance Institute of London. 1930. Crown 8vo. pp. viii and (with Index) 189. London: Effingham Wilson. 7s. 6d. net.

The Law of Evidence. SIDNEY L. PHIPSON, M.A. (Cantab.), Barrister-at-Law. Seventh Edition (1930) by ROLAND BURROWS, M.A., LL.D., Recorder of Cambridge, Reader in Evidence to the Inns of Court. Assisted by C. M. CAHN, B.A., Barrister-at-Law. Medium 8vo. pp. cxc and (with Index) 788. London: Sweet & Maxwell, Ltd. Thick edition £2 2s. net. Thin edition £2 5s. net.

Municipal Accounts Exemplified. STANLEY WHITEHEAD, Borough Treasurer of Hammersmith. Demy 8vo. pp. (with Index) 100. London: Gee & Co. (Publishers), Ltd. 7s. 6d. net.

Voluntary Liquidation. A Handbook on the Voluntary Winding Up of English Joint Stock Companies. With a Chronological List of steps to be taken to commence, conduct and complete a Voluntary Winding Up, and an Appendix containing forms and the relevant provisions of the Companies Act, 1929, and the Winding-Up Rules, 1929. A. C. HOOPER, Solicitor and Notary. 1930. pp. xv and (with Index) 221. London: Gee & Co. (Publishers), Ltd. 12s. 6d. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Change of Christian Name.

Q. 2054. A married woman was baptised in the names of "Mabel Alice" Jones. Her birth certificate shows that her birth was registered in the name of "Alice May" Jones. For many years before her marriage she had been known by the first names of "Mary Alice," and she was under the impression that these were her correct first or christian names. The banns of marriage were published in the names of "Mary Alice" Jones, and on her marriage she signed the register accordingly. She is desirous of formally changing her first names to "Mary Alice." Can this be done by deed poll enrolled in the Central Office as in the case of a change of surname? Is it necessary for public notice to be given in the "Gazette" and a local newspaper? (See "Halsbury's Laws of England, Vol. 21, p. 349, and "Ency. of Forms," Vol. 2, pp. 1 and 2.)

A. The right to acquire a new christian name, otherwise than at confirmation, was established by *Rex* v. *Inhabitants of Billinghurst* (1814), 3 M. & S. 250, where it was held that the new name might be acquired by reputation. The regulations with regard to the enrolment of deeds are set out in the "Annual Practice," 1930, pp. 1297 and 1298, and are not in terms confined to changes of surname. The first names may therefore also be changed by that means, but it is necessary to advertise the fact in the "London Gazette," although not in a local paper. As the birth certificate was wrong from the outset, and the new name has long since been acquired by reputation, an application should be made to the Registrar-General to amend the birth certificate—on production of the requisite statutory declarations. The title to the existing names will then be complete, without enrolment of a deed poll.

Banker's Liability to Customer.

Q. 2055. A is a dealer in foreign goods and imports the same from two separate and different foreign firms. In the one case he has to send his cheque and upon it being cleared the goods are dispatched to him. In the other case he is allowed about £20 to £50 on credit for a few months, but upon ordering new goods has to pay up what is owing prior to the new order. In December, 1929, A's bank, through an oversight, stopped his cheque to one of the foreign manufacturers, although he had not exceeded the agreed amount of his overdraft at that time. The bank acknowledged their error in writing, and sent to the foreign manufacturers and put matters right with them. About three months later A, who was then owing about £30 to the other foreign manufacturers, gave another order for £20 worth of goods, but was refused the same until payment of the £30 already owing. He believes the reason for this is that the first manufacturers had informed some trade association and that he had been put upon their list as being of doubtful financial stability. He informed the bank, and they obtained a letter from the first manufacturers that "they have made no improper use of their information, and that they will continue to trade with A." A has since the last-mentioned order issued a cheque for 5s. when his account was overdrawn, and therefore the bank say that he cannot value his credit highly to risk it for 5s. A is in fact trading on credit, and in fact has no capital at all. Has he any right of action against the bank? And, if so, would he be likely to recover substantial damages?

A. It is not stated in the question that the bank refused to pay the cheque for 5s., nor is it stated to whom the remark was made as to A not valuing his credit highly to risk it for 5s. It is assumed that the remark was made to A, and that there was no publication upon which to base an action for slander. If the cheque for 5s. was dishonoured, it is difficult to see what claim A can have, as the bank were apparently acting within their rights, and there is no evidence of negligence or breach of contract. Even if A's claim were well founded, the circumstances in which he is trading would debar him from recovering substantial damages.

Liability for Tenants' Disturbance Claims.

Q. 2056. A is tenant for life of an estate and B the remainderman. In September, 1929, A serves his agricultural tenants with notice to quit, expiring in September, 1930. A dies in August, 1930. As between A's representatives and B, who is liable to pay the tenant's disturbance claim under the Agricultural Holdings Act, 1923? It is appreciated that the tenants' claims will have to be made against B as the person entitled to receive the rents and profits at the expiration of the tenancy.

A. The amount due to the tenants is in respect of unexhausted expenditure and improvements, the benefit of which will accrue to the remainderman. As between A's representatives and B, the tenants' disturbance claims must therefore be paid by B, and, in the event of his default, a charge may be obtained upon the holding under s. 41 of the above Act.

Assignment of Statutory Tenancy.

Q. 2057. A client of ours owns a controlled house. The tenant is a watchmaker who uses the front room for repairing watches. He resided in the rest of the house with his family. The tenant has recently left and gone to other premises and has put his brother in the house. He states that he, the tenant, has acquired another business, and that he requires his brother to look after his original business for him, and, therefore, he is allowing his brother to occupy our client's house. Will you please give us your view as to our client's right to obtain possession. If, on the above facts, there has been an attempt to assign the tenancy to the brother, it is clear that on the notice to quit being given to the original tenant, our client can recover possession. On the other hand, cannot the original tenant argue that he is in fact still in possession of our client's house by his brother who is working for him as his servant and managing his business for him, and at the same time residing in the house? Our client's house would still be then used as a dwelling-house, although not lived in by the original tenant, and the original tenant would still be in possession by his servant. It seems to us to entirely depend upon what construction the judge places on the facts. If the brother sets up a case that he is a servant of the original tenant, we can see great difficulties in our way, and we shall be glad to have your view on the matter.

A. The opinion is given that, as statutory tenancy is a personal right of the tenant, the above conduct on his part is in excess of his rights. Occupation by proxy is incompatible with the nature of a statutory tenancy, and the argument that the tenant is in occupation by his brother, as his servant, could not be sustained. The above facts therefore disclose an assignment, which entitles the landlord to possession.

Notes of Cases.

High Court—Chancery Division.

T. M. Fairclough and Sons Ltd *v.* Berliner.

Maugham, J. 15th October.

LANDLORD AND TENANT — JOINT LESSEES — REPAIRING COVENANTS — BREACHES — ACTION FOR POSSESSION BY LESSOR—CLAIM BY ONE JOINT LESSEE ALONE FOR RELIEF FROM FORFEITURE—LAW OF PROPERTY ACT, 1925, 15 Geo. 5, c. 20, s. 146, sub-s.s (2) and (5).

Action.

In this case the plaintiff company, after serving a schedule of dilapidations and notices on joint lessees without such schedule complied with, brought an action against both defendants for possession. One of the defendants asked for relief against forfeiture under s. 146, sub-s. (2), of the Law of Property Act, 1925, but the other wished the lessor company to obtain possession of the premises and thus put an end to his further liability under the covenants in the lease.

MAUGHAM, J., after stating the facts, said: Under s. 146, sub-s. (2), of the Law of Property Act, 1925, the question arose whether one of the two joint lessees can make such an application, and whether, if he can, the court ought, in its discretion, having regard to the proceedings and to the conduct of the parties under the provisions of that section and to the other circumstances of the case, to grant such relief, and, if relief can and ought to be granted, on what terms the court should grant it. In the present case, it is not accurate, in my judgment, to say that L is the lessee. The lessees were joint lessees, B and L. Section 146, sub-s. (5), of the Law of Property Act, 1925, states that "'lessee' includes an original or derivative underlessee and the persons deriving title under a lessee," but it does not in any way lead to the conclusion that if there were two or more joint lessees, one of them could apply to the court for relief, and there seems to me to be a very great objection to a provision which would enable one joint lessee to apply to the court unless the provision also in some way entitled the court, in granting relief, to absolve the other joint lessee from future liability. The section is referring to a provision in the nature of an indulgence to be given to a lessee, or joint lessees who have not complied with their contractual obligations, and the effect of granting relief under the sub-section is to restore the lease as though it had never been forfeited. That is the result of the decision in *Dendy* v. *Evans* [1930] 1 K.B. 263. Accordingly, if I were to accede to the application on behalf of L, the result would be that B would continue to be liable under the onerous covenants in the lease, including that to pay rent up to the termination of the lease without, if might be, any prospect of being able to recoup himself by the use of the premises. In my judgment, s. 146, sub-s. (2), can be applied in the present case only upon the application of the two joint lessees, and, no such application having been made, it seems to me that the court has no jurisdiction to grant relief. The plaintiff, therefore, has a right to an order for possession of the premises.

COUNSEL: *G. R. Blanco White; E. S. Cox Sinclair.*

SOLICITORS: *Stevens, Morris & Stone; Lord & Peppercorn.*

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Harris *v.* Harris.

Lord Merrivale, P., and Bateson, J. 15th October.

HUSBAND AND WIFE SUMMONS FOR WILFUL NEGLECT TO MAINTAIN ALLEGED ADULTERY OF WIFE COMMUNICATION BY WIFE TO SOLICITOR REJECTION ON GROUND OF PRIVILEGE.

This was a husband's appeal from an order made against him by the Birmingham City justices on 12th June, 1930, on the ground of wilful neglect to maintain. The main ground of appeal was the wrongful rejection by the justices of evidence of an admission of adultery alleged to have been made by the wife in the year 1919 to a solicitor employed by the husband, but who was in touch with both parties. The husband relied on this alleged adultery, which was denied by the wife, as a bar to the present proceedings. The solicitor in question was called as a witness before the justices and stated that the wife "probably regarded him as her solicitor," whereupon objection was taken successfully on behalf of the wife that any communication by the wife to the solicitor was privileged, and the justices proceeded to make an order for 5s. per week on the rest of the materials before them. Counsel for the appellant submitted that the wife was not the solicitor's client, and therefore there could be no privilege. Even if the solicitor were acting for both parties there was no privilege for a communication made by one of them to their common solicitor: *Baugh* v. *Andocke* (1832), 1 Moo. & R. 182. Bateson, J., referred to *Minter* v. *Priest* (1930), 46 T.L.R.

Lord MERRIVALE, P., in dismissing the appeal, said that the husband had disclaimed liability to maintain his wife because, as he said, he suspected her of adultery. The wife had denied the adultery alleged. The husband said that she had made an admission to a solicitor in his presence. When the solicitor was about to be asked about that, the wife's adviser objected, and the justices held that it was a privileged communication. In the circumstances the justices were right. One of the safeguards of life and one of the securities of lay persons was to be able to approach a solicitor, when going to him as a solicitor, with the knowledge that he would not be compelled to disclose what had been confided to him.

BATESON, J., agreed.

COUNSEL: *D. L. Finnemore* for the appellant; *T. Bucknill* for the respondent.

SOLICITORS: *Stooke-Vaughan & Taylor*, for *Higgs & Sons*, Brierley Hill; *Piesse & Sons*, for *A. C. Hayes & Dawkins*, Birmingham.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Smith, E. J. *v.* Smith, M. H.

Lord Merrivale, P., and Bateson, J. 15th October.

HUSBAND AND WIFE SUMMONS FOR WILFUL NEGLECT TO MAINTAIN ONLY—JUSTICES' ORDER PRONOUNCING SEPARATION AND DISPOSING OF CUSTODY—IRREGULAR PRACTICE "PROLIFIC OF MISCHIEF."

This was an appeal by the husband against orders made by the Norwich City Justices on 20th June, 1930, on a finding that he had wilfully neglected to maintain his wife and children. The husband contended that there was no evidence upon which they could properly have so found. The wife's summons only asked for maintenance on the ground of wilful neglect to maintain, but the justices had proceeded to pronounce a separation and had dealt with the custody of the children of the marriage.

Lord MERRIVALE, P., in giving judgment, said that the present case was the second or third that morning with a singular characteristic. Coming before the justices under the jurisdiction which they exercised in matrimonial cases, the wife complained that the husband had wilfully neglected to maintain her, and, making only that complaint, asked for the relief which might follow therefrom. Thereupon the justices had assumed one of the most difficult jurisdictions which could be exercised, that of dealing with the matrimonial differences of two parties who had differences. They had decreed a judicial separation and had broken up the family by giving the custody of one child to the father and of the other to the mother, without being asked for such order. It was only necessary to call attention to an occurrence of that kind to see what a mistaken proceeding it was, and how prolific of mischief it could be in the marital

relations of people resorting to provincial justices in their limited jurisdiction. The justices had accepted the wife's account of the circumstances which led to the parting, and in making the order for maintenance had taken a reasonable view, but the orders for separation and custody must be set aside, the wife being allowed her costs.

BATESON, J., agreed.

COUNSEL: *A. Lierneux*, for the appellant; *Garth Moore*, for the respondent.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Correspondence.

"The Law of Light."

Sir,—With reference to Mr. Nicholson Combe's letters on the above subject published in your issues of 4th October and 1st November, I should be glad to have elucidation of a point on which I feel difficulty. In his proposed bill, Mr. Combe would make the right to obstruct light to a window in a new building, or, I take it, a new window in an old building, a registrable charge under the Land Charges Act, 1925, "as against the new house property"—or, no doubt, the old house property pierced by a new window, as the case may be. The Act, however, does not provide for charges against property (other than local land charges under s. 15, to which r. 2 (1) of the Local Land Charges Rules, 1925, may apply), but, by s. 10 (2), against estate owners. In the case of a second mortgage, restrictive covenant, etc., the charge is entered against the mortgagor, covenantor, etc., after the mortgagee or covenantee has satisfied himself by an abstract of title, and examination of deeds, that the person in question is an estate owner. If, however, a house is being built on land adjacent to mine, and I see a window-frame so situate that a right of light would eventually be acquired against me, how am I to ascertain the right person against whom to register the charge? The workmen engaged on the building can, if they please, tell me the name of the contractor, but how much further can I carry it? The contractor has no duty to me to disclose the name of the person who has given him his order, and in fact I should suppose his duty to the latter would be to hold his tongue about it to outsiders. Even if the name was given, it seems to me that there would be little security. To take an example, A mortgages to B, and sells his equity of redemption, as I suppose his interest still must be called, to C. C builds a house with an offending window, and I register a charge against him. Subsequently B enters into possession, dispossessing C, and sells under his power to D. The abstract of title does not disclose C's name, and D knows nothing about him. I rest secure on my charge, and, twenty years after the window has been opened or, perhaps, after D has been in possession, build so as adversely to affect its light. If I am right in my deduction that my charge would not affect D, and would therefore be worthless, how does Mr. Combe propose to deal with the matter without disturbing the whole scheme underlying the Act, and embodied in s. 10 (2)? If, on the other hand, s. 198 of the L.P.A., 1925, was strong enough to give notice of the charge to D, no one could safely buy land from a mortgagee under his power.

1st November. A. F.

Sir,—With reference to your issue of the 1st inst., and to the letter by Mr. Nicholson Combe appearing therein, I notice he states as follows:—

> "It suffices to say that the principles on which prescriptive claims to light are founded in English law are the same principles which have their place in every system of law throughout the civilised world. One or two States might be named here where prescriptive claims to light have been abolished by statute. But the conditions in those States are very different from those subsisting in this country. Indeed to name them here would be to dispose of that suggestion."

I would mention that when I was in New York with the legal profession last summer, I enquired how the question of ancient lights was dealt with when erecting sky scrapers and I was informed by a member of the American Bar that there was no law of ancient lights in that State, and, I gathered, in other States of America, so that I suggest that the above paragraph is hardly correct. New York seems to manage reasonably satisfactorily without a law of ancient lights.

London, W.C.1. A. O. WARREN.

4th November.

Societies.

Huddersfield Law Society.

ANNUAL MEETING.

The annual meeting of the Huddersfield Law Society was held in Whiteley's Café on Wednesday, the 29th October. Mr. F. C. Watkinson, the retiring president, was in the chair.

The annual report, which was presented by Mr. H. C. Walker, stated that nearly two years ago the parent society submitted to the provincial societies a memorandum in which it was suggested that all solicitors should be taxed in order to provide a fund for the alleviation of the distress caused by defalcations. The proposals did not meet with the approval of the country solicitors. The parent society had lodged a bill with Parliament which provided that every member of the profession should become a member of the society. Parliament had been asked to give the society power to make rules for the good conduct of the profession, and especially with regard to the keeping of proper accounts. An alternative bill had been introduced by Sir John Withers which went further than the society's bill, and provided for compulsory audit and the keeping of separate accounts for clients' moneys. In order to keep in touch with the provincial solicitors as a whole the society had become a member of the Associated Provincial Law Societies.

The financial statement was submitted by Mr. Gilbert E. Shaw, the treasurer.

On the motion of the retiring president, seconded by Mr. Arthur E. T. Hinchcliffe, the annual report and the financial statement were adopted.

DEFAULTING SOLICITORS.

The retiring president, addressing the members, said that the subject of defaulting solicitors had been largely before the public during the last twelve months. The extent of the evil had been greatly exaggerated. According to figures which had been published and accepted as correct, less than one in every thousand of the profession was dishonest.

The public were hopelessly ignorant of the vast amount of money which passed through solicitors' hands. Inquiries had been made from solicitors with practices, large and small, and on a very low estimate an average of not less than £20,000 passed through the hands of every solicitor each year.

Roughly speaking, there were 15,000 practising solicitors, so that on the average the enormous sum of £300,000,000 passed through their hands every year without loss to their clients. Facts such as these required bringing to the notice of the public, and they would then continue to place in the profession the same great confidence which they had done in the past.

THE OFFICERS.

Office-bearers were appointed as follows for the ensuing year: President, Mr. A. E. T. Hinchcliffe; vice-president, Mr. H. E. Walton; hon. treasurer, Mr. G. E. Shaw; hon. secretaries, Mr. H. C. Walker and Mr. Sidney Hulme; auditors, Mr. E. L. Fisher and Mr. H. H. Ramsden; committee, Messrs. W. L. Wilmshurst, J. H. Fletcher, F. C. Watkinson, J. F. Best, A. Mellor, E. E. Fieldhouse, T. P. Downey, T. E. Jackson and Samuel Proctor.

Central Discharged Prisoners' Aid Society.

The Marquess and Marchioness of Londonderry have kindly lent the use of the Ball Room at Londonderry House for a meeting of the Central Discharged Prisoners' Aid Society to be held, by invitation, in the afternoon of Armistice Day, when The Right Honourable J. R. Clynes (Home Secretary) and Judge Holman Gregory, K.C., will be the principal speakers. The Chaplain of Pentonville will also speak at the meeting, with the president of the society, Mr. F. P. Whitbread, in the chair.

Parliamentary News.

House of Commons.

Bills Presented.

Rights of Way Bill. "To amend the law relating to public rights of way; and for purposes connected therewith"; to be read a Second Time upon Friday, 30th January.

Rural Amenities Bill. "To provide for the better preservation of rural amenities and objects of national interest"; to be read a Second Time upon Friday, 23rd January.

Employment Returns Bill. "To require employers in industries benefiting from safeguarding duties to make annual returns as to the number of persons employed; and for purposes connected therewith"; to be read a Second Time upon Friday, 13th February.

Solicitors Bill. "To amend the Solicitors Acts, 1839 to 1928, by requiring all solicitors to be members of The Law Society and by enabling the Society to make and enforce rules of professional conduct and to establish a fund for the relief of persons suffering loss through the default of solicitors; and for purposes connected with the matters aforesaid"; presented by Sir Dennis Herbert; to be read a Second Time upon Friday, 20th February. [3rd November.

Abolition of Corporal Punishment Bill. "To provide for the abolition of corporal punishment"; to be read a Second Time upon Friday, 30th January. [4th November.

Questions to Ministers.

BREAD ACTS.

Mr. THORNE asked the Home Secretary whether he has received a letter from the Essex county association of master bakers, asking for legislation to safeguard the health of those engaged in the industry and to restrain those who practise methods of trading uncalled for by the public and detrimental to the welfare of the community; and what action he intends taking in the matter.

Mr. CLYNES: The letter to which my hon. Friend refers suggested a stricter enforcement of the existing law with regard to Sunday baking and delivery of bread, or preferably fresh and more effective legislation. The matter is regulated at present by the Bread Acts of 1822 and 1836, but the enforcement of these Acts is not a matter for which my Department is responsible, and I have no power to intervene. It is open to any person aggrieved, or any member of the public, to take action. As regards fresh legislation, I should of course be willing to consider any proposals that might be submitted, though I can see little prospect at present of the Government being able to find time for any Bill on this subject. [30th October.

ALLOTMENT GARDENS.

Mr. L. SMITH asked the Minister of Agriculture whether his attention has been called to the need for extension of the movement for offering special facilities to unemployed workmen for taking and working allotment gardens; whether he has received any recommendations that the Government should be asked to undertake to defray any loss that may be incurred by local authorities in connexion with any schemes for that purpose; and what is the attitude of the Ministry on the subject.

Dr. ADDISON: This matter will be dealt with in a Bill which I hope to introduce at a very early date. [30th October.

LICENSING COMMISSION (CHAIRMAN).

In reply to Mr. HACKING, Mr. CLYNES said the Government are hopeful that Lord Amulree, notwithstanding his appointment as Secretary of State for Air, may be able to spare the necessary time to continue as Chairman of the Royal Commission on Licensing. Should it turn out to be necessary to make any change, I shall inform the House at the earliest moment. [30th October.

CROWN PROCEEDINGS BILL.

Sir W. DE FREECE asked the Prime Minister whether it is the intention of the Government to reintroduce the Crown Proceedings Bill this Session, seeing that a considerable portion of this Measure has always been understood to be non-controversial.

THE PRIME MINISTER: In the present state of public business, I am not in a position to make any statement on this subject. [30th October.

JOINT INDUSTRIAL COUNCILS.

Mr. MANDER asked the Minister of Labour if it is the intention of the Government during the present Session to introduce legislation giving statutory powers to joint industrial councils.

Miss BONDFIELD: No, Sir. The Government do not at present propose to introduce legislation for this purpose. [30th October.

NATIONAL HEALTH INSURANCE (UNEMPLOYMENT).

Mr. PALMER asked the Minister of Health what steps, if any, he proposes to take for the protection of approved society members whose insurability is being challenged owing to prolonged unemployment.

Mr. GREENWOOD: The position of those insured persons who, by reason of prolonged unemployment, would, in the absence of special measures, cease at the end of the present year to be insured under the Health Insurance and Contributory Pensions Schemes, is at present under consideration, and I hope to be able to make a statement on the subject at an early date. [30th October.

PROPERTY REGISTRATION.

Lieut.-Colonel WINDSOR-CLIVE asked the Attorney-General what steps have been taken by His Majesty's Land Registry to bring to the immediate notice of building societies the advantages of registration of property under the Act of 1915.

THE LORD ADVOCATE (Mr. Craigie Aitchison): I have been asked to reply. My hon. Friend has no reason to suppose that building societies are not fully aware of their powers in this respect, and he does not think that any useful purpose would be served in adopting the suggestion contained in the question. [3rd November.

UNSATISFIED JUDGMENTS (REGISTRATION).

Mr. WHITE asked the Attorney-General if he will consider the advisability of setting up a committee to consider the desirability and practicability of approximating to the High Court and other local courts the practice of registration of unsatisfied judgments for money without stay of execution, now applicable in county courts?

The LORD ADVOCATE: I have been asked to reply. Careful consideration has been given to the question raised by the hon. Member, but having regard to the volume of work at present under the consideration of committees, my hon. Friend does not feel justified in adopting the suggestion. [3rd November.

ELECTORAL LAW.

Mr. FREEMAN asked the Home Secretary whether the Government will consider, in the Electoral Reform Bill, including the provision of a public holiday on the occasion of a general election.

Mr. SHORT: The proposal of the hon. Member will be considered, though my right hon. Friend is afraid that there would be serious difficulties in the way of its adoption. [4th November.

MOTOR TAXATION.

In reply to Mr. GRAHAM WHITE, Mr. P. SNOWDEN said no definite proposal is before the Government to alter the system of taxing motor cars. I am, and always have been, prepared, however, to consider any alteration in the horse-power formula governing the taxation of private motor cars which, without involving loss of revenue, would assist British manufacturers. [4th November.

DYESTUFFS (IMPORTATION REGULATION) ACT.

In reply to questions by Mr. MANDER and Major MCKENZIE WOOD, the President of the Board of Trade (Mr. W. GRAHAM) said: I hope to be able to make an announcement shortly with regard to the Dyestuffs (Import Regulations) Act, 1919; but that an opportunity would be given for a discussion before a final decision was taken. [4th November.

MARITIME CONVENTIONS.

Lieut.-Commander KENWORTHY asked the President of the Board of Trade if he is aware of the desires of the shipping industry of this country for the early ratification of the Maritime Conventions relating to the load line, the limitation of liability, maritime mortgages, and liens and immunity; and whether it is intended to introduce legislation for this purpose other than that for the ratification of the Safety of Life at Sea Convention referred to in the gracious Speech.

Mr. W. GRAHAM: Yes, sir. Legislation to give effect to the Conventions relative to the Load Line, the Limitation of Shipowners' Liability, and Maritime Mortgages and Liens will be introduced as soon as possible. [4th November.

Legal Notes and News.

Honours and Appointments.

Mr. EDWARD M. GALLOWAY, Deputy Clerk and Assessor to the Justices of the Peace for the Lower Ward of Lanarkshire, has been now appointed Justice of the Peace Fiscal for that Ward.

Mr. T. STIRLING BOYD, of the Inner Temple, Barrister-at-Law, Judicial Commissioner of Sarawak, has been appointed Chief Justice of Sarawak.

The Colonial Office announces that the King has appointed His Honour CHARLES FREDERIC BELCHER, O.B.E. (Chief Justice of Cyprus) to be Chief Justice of Trinidad.

Sir HENRY CHARTRES BIRON, Barrister-at-law, Chief Magistrate at Bow-street since 1920 (when the honour of Knighthood was conferred upon him), has been elected a Bencher of the Honourable Society of Lincoln's Inn, in the place of the late Lord Muir Mackenzie, K.C. Sir Chartres, who was educated at Eton and Trinity College, Cambridge, was called to the Bar in 1886, was Treasury Counsel to the London Sessions and Counsel to the Post Office at the Central Criminal Court and was appointed a Metropolitan Police Magistrate in 1906. His publications include "Biron and Chalmers on Extradition."

Professional Announcements.

(2s. per line.)

Mr. FRANK MEDLICOTT, solicitor (Messrs. Medlicott & Co.), has removed his offices to No. 1, New-square, Lincoln's Inn, W.C.2, and his new telephone numbers are Holborn 4582 and 4583 (Private Branch Exchange).

Mr. HOWE COWAN (LL.B. New York University), barrister and solicitor (St. John, New Brunswick, Canada), announces that after being identified with some of the large law offices in New York City for the past ten years, he has opened his own offices as Professional Correspondent for Lawyers on Admiralty, Legal and Tax matters, as affecting British subjects and their interests, at 15, Park-row, New York City. 'Phone: Worth 2484; Cable address: "Howcowan," New York.

As from the 1st November, 1930, the practice carried on by R. W. ELDER, G. H. PLUMMER, L. P. POTTER and E. S. WELCH in partnership under the style of "Mayo, Elder & Co.," at 10, Drapers Gardens, London, E.C.2, and the practice carried on by Sir HUGO RUTHERFORD, Bt., and L. E. RUTHERFORD in partnership under the style of "Rutherfords," at 43, Castle-street, Liverpool, will be continued as one practice by the individuals above named in partnership under the style of "Mayo, Elder & Rutherfords" at both the addresses above mentioned.

ADMINISTRATION OF HUNGARIAN PROPERTY.

TWELFTH DIVIDEND.

The Administrator of Hungarian Property (Cornwall House, Stamford-street, London, S.E.1), announces that a Twelfth Dividend of 1s. 6d. in the £ will be paid to all creditors who are entitled to participate.

The first distribution of the dividend will be made on 7th November, 1930. An individual notice will be sent to each creditor as and when he becomes entitled to participate.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE	EMERGENCY ROTA	APPEAL COURT No. 1	GROUP I. Mr. JUSTICE EVE. Witness. Part II.	Mr. JUSTICE MAUGHAM. Witness. Part I.
M'nd'y Nov. 10	Mr. More	Mr. Jolly	Mr.*Ritchie	Mr. Jolly
Tuesday .. 11	Ritchie	Hicks Beach	*Blaker	*Ritchie
Wednesday 12	Andrews	Blaker	*Jolly	Blaker
Thursday . 13	Jolly	More	Ritchie	*Jolly
Friday 14	Hicks Beach	Ritchie	*Blaker	Ritchie
Saturday .. 15	Blaker	Andrews	Jolly	Blaker
	GROUP I. Mr. JUSTICE BENNETT Non-Witness.	Mr. JUSTICE CLAUSON. Witness. Part I.	GROUP II. Mr. JUSTICE LUXMOORE. Non-Witness.	Mr. JUSTICE FARWELL. Witness. Part II.
M'nd'y Nov. 10	Mr. Blaker	Mr.*More	Mr. Andrews	Mr.*Hicks Beach
Tuesday .. 11	Jolly	Hicks Beach	More	*Andrews
Wednesday 12	Ritchie	*Andrews	Hicks Beach	*More
Thursday . 13	Blaker	More	Andrews	Hicks Beach
Friday 14	Jolly	*Hicks Beach	More	Andrews
Saturday .. 15	Ritchie	Andrews	Hicks Beach	More

* The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The CHRISTMAS VACATION will commence on Wednesday, the 24th day of December, 1930, and terminate on Tuesday, the 6th day of January, 1931, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May, 1930) 3%. Next London Stock Exchange Settlement Thursday, 20th November, 1930.

	Middle Price 5th Nov. 1930.	Flat Interest Yield.	Approximate Yield with redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	93⅜	4 5 4	—
Consols 2½%	59	4 4 9	—
War Loan 5% 1929-47	102⅛	4 17 11	—
War Loan 4½% 1925-45	100⅛	4 9 7	4 9 0
War Loan 4% (Tax free) 1929-42	100⅝	3 19 5	3 18 3
Funding 4% Loan 1960-90	95⅛	4 3 9	4 4 0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	97	4 2 6	4 3 3
Conversion 5% Loan 1944-64	105⅛	4 14 9	4 13 6
Conversion 4½% Loan 1940-44	102⅝	4 7 7	4 3 3
Conversion 3½% Loan 1961	82⅝	4 4 7	—
Local Loans 3% Stock 1912 or after	69	4 6 11	—
Bank Stock	271½	4 8 5	—
India 4½% 1950-55	87	5 3 6	5 9 6
India 3½%	65	5 7 8	—
India 3%	56	5 7 2	—
Sudan 4½% 1939-73	99	4 10 11	4 11 0
Sudan 4% 1974	90	4 8 11	4 10 6
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years.)	83½	3 11 10	4 2 7
Colonial Securities.			
Canada 3% 1938	93	3 4 6	4 2 0
Cape of Good Hope 4% 1916-36	96	4 3 4	4 15 6
Cape of Good Hope 3½% 1929-49	87	4 0 6	4 11 0
Ceylon 5% 1960-70	102	4 18 0	4 17 9
Commonwealth of Australia 5% 1945-75	78½	6 7 5	6 9 9
Gold Coast 4½% 1956	95	4 14 9	4 17 0
Jamaica 4½% 1941-71	96	4 13 9	4 14 6
Natal 4% 1937	97	4 2 6	4 11 9
New South Wales 4½% 1935-45	75½	5 19 2	7 6 3
New South Wales 5% 1945-65	75½xd	6 12 5	6 17 10
New Zealand 4½% 1945	98	4 11 5	4 14 0
New Zealand 5% 1946	104	4 16 2	4 15 9
Nigeria 5% 1950-60	104	4 16 2	4 15 0
Queensland 5% 1940-60	76½	6 10 9	6 17 6
South Africa 5% 1945-75	103	4 17 1	4 16 9
South Australia 5% 1945-75	77½	6 9 0	6 11 3
Tasmania 5% 1945-75	83½	5 19 9	6 1 3
Victoria 5% 1945-75	77½	6 9 0	6 11 3
West Australia 5% 1945-75	77½	6 9 0	6 11 3
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	66	4 10 11	—
Birmingham 5% 1946-56	105	4 15 3	4 13 6
Cardiff 5% 1945-65	102	4 18 0	4 17 6
Croydon 3% 1940-60	73	4 2 2	4 14 0
Hastings 5% 1947-67	105	4 15 3	4 14 3
Hull 3½% 1925-55	82	4 5 4	4 14 9
Liverpool 3½% Redeemable by agreement with holders or by purchase	78	4 13 4	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	56xd	4 9 3	—
London City 3% Consolidated Stock after 1920 at option of Corporation	69xd	4 6 11	—
Manchester 3% on or after 1941	66	4 10 11	—
Metropolitan Water Board 3% "A" 1963-2003	67	4 9 7	—
Metropolitan Water Board 3% "B" 1934-2003	69	4 6 11	—
Middlesex C.C. 3½% 1927-47	86	4 1 5	4 14 0
Newcastle 3½% Irredeemable	74	4 14 7	—
Nottingham 3% Irredeemable	65	4 12 4	—
Stockton 5% 1946-66	103	4 17 1	4 16 6
Wolverhampton 5% 1946-56	102	4 18 0	4 16 9
English Railway Prior Charges.			
Gt Western Rly. 4% Debenture	86	4 13 0	—
Gt. Western Rly. 5% Rent Charge	103½	4 16 7	—
Gt. Western Rly. 5% Preference	97	5 3 1	—
L. & N.E. Rly. 4% Debenture	81½	4 18 2	—
L. & N.E. Rly. 4% 1st Guaranteed	77	5 3 11	—
L. & N.E. Rly. 4% 1st Preference	60½	6 12 3	—
L. Mid. & Scot. Rly. 4% Debenture	84	4 15 3	—
L. Mid. & Scot. Rly. 4% Guaranteed	81	4 18 9	—
L. Mid & Scot. Rly. 4% Preference	66½	6 0 4	—
Southern Railway 4% Debenture	85½	4 13 7	—
Southern Railway 5% Guaranteed	101½	4 18 6	—
Southern Railway 5% Preference	94⅜	5 5 10	—

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS LIMITED**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality. 'Phones: Temple Bar 1181-4.

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RE Mrs. JANE BAILEY, deceased, late of 29, Albert-road, Handsworth, Birmingham, and who died 3rd August, 1930. Anyone having knowledge of a Will made by the above in Birmingham in or about the year 1916 please communicate with Box 584, Solicitors' Journal, 29, Breams-buildings, E.C.4.

LUCY ASHMORE, deceased, late of 3, Campion Road, Leamington Spa, in the County of Warwick, Widow. The undermentioned are requested to communicate with the undersigned Solicitors concerned in this estate: All nephews and nieces of the said Lucy Ashmore, including children of deceased's brother William Liggins and deceased's sister Sarah Liggins; or, if dead all children of such nephews and nieces; the children of Bessie Liggins who married one Cox, whereabouts unknown. —Field & Sons, 42, Warwick-street, Leamington Spa.

TO PARISH Clerks and Others.—£1 1s. reward. Wanted, date and place of burial of John Obrisset, otherwise Aubrisset, living December, 1728 (especially London).—P. A. S. Phillips, Hotel Metropole, W.C.2.

PROBERT.—The Kin of Winifred Probert, Spinster, late of 117, Ladywood-road, Birmingham, Warwickshire, who died at Birmingham, on the 12th April, 1930, are requested to apply to the Treasury Solicitor (B.V.), Storey's-gate, London, S.W.1. (Estate about £120.)

TO SOLICITORS in Yorkshire.—Re Mrs. MORGAN, deed.—Will the solicitor who sought Alfred John Chance, of Luton, please communicate with E. Hide, 39, Belmont-road, Wealdstone, Harrow.

TO SOLICITORS and others.—Any persons having custody of the WILL of CAPTAIN ARTHUR NESBITT PATCHETT, late of Oakgrove, Coachford, County Cork, Ireland, are requested to COMMUNICATE with Messrs. Stone, King & Wardle, solicitors, 18, Queen-square, Bath.

RE Mrs. QUEENIE J. E. REEVES, deceased. —Will the Solicitor who acted for, or prepared a Will for Mrs. REEVES, late of 11, Hornley Place, Paddington, W.9, and who died June 24th, 1930, please communicate with Box 566, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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ABSOLUTE REVERSION on decease of life 77, to one-third of about £147,000.—Solicitors: Messrs. Fitzhugh, Woolley, Baines & Woolley, 3, Pavilion-parade, Brighton.

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£1,000 Confederation Life. Endowment maturing 1933. Premium life 52, £53 8s. Present estimated contingent bonus, £388.

£1,000, same office, same life. Endowment maturing in 1934. Premium £53 16s. Present estimated contingent bonus, £390.

£500 Life Association of Scotland, same life (Class B). Premium £20 1s. 8d. (20 payments).

£200, same office, same life (Class A. 3). Premium £5 8s. 8d. Bonuses, £36 12s.

£100, same office, same life (non-profit). Premium, £2 2s. 11d.

£100 Refuge Assurance Society, same life. Quarterly premium 12s. 11d. Bonuses about £37.

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